IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 25 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VALJIBHAI VIRJIBHAI

Versus

GUJARAT ELECTRICITY BOARD

Appearance:

MRS DT SHAH for Petitioner

MR MD PANDYA for Respondents

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 07/03/2000

ORAL JUDGEMENT

Rule. Mr.M.D.Pandya appears for respondent authorities and waives service of notice of rule. In the facts and circumstances of the case, the matter is taken up for final hearing today.

This petition is filed for quashing and setting aside supplementary bill issued by GEB ,respondent No.1. Supplementary bill for Rs. 4,08,628/- was issued to the petitioner . It was inter alia alleged that the petitioner had committed illegalities and irregularities and he was liable to pay an amount of Rs. 4,08, 628/-. Immediately, the petitioner approached this Court on January 5, 1999. Notice was issued and ex-parte mandatory order was passed pursuant to which, power connection which was restored by the Board. Today, the matter is taken up for final hearing.

It was submitted by Ms Shah that the petitioner has not committed any irregularity or illegality. It was also submitted that looking to the disputed bill as also supplementary bill, it cannot be said that the petitioner was liable to pay an amount of Rs. 4,08, 628/-. It was urged that on the basis of surmises and conjectures, supplementary bill was issued which is liable to be quashed and set aside.

Mr. Pandya, on the other hand, submitted that appeal lies before appellate committee which consists of experts including a judicial member. Apart from the fact that it is alternative and more efficacious remedy, the question sought to be raised in the present petition can appropriately be dealt with and decided by the appellate committee. He, therefore, submitted that the petition deserves to be dismissed only on that ground.

In the facts and circumstances, in my opinion, ends of justice would be met if the following directions are issued:

(i) Since alternative and much more efficacious remedy by way of appeal is available, it will be in the fitness of things if the petitioner is directed to avail of the said remedy. It is directed that if the petitioner approaches appellate committee within a period of one month from today, the appellate committee will entertain the appeal without raising any objection as to limitation.

(ii) The committee will consider all contentions raised by the petitioner and will decide the appeal on its own merits in accordance with law without being influenced by the interim order or the order passed by me now.

(iii) The petitioner will pay 30% of the amount of

supplementary bill . Said payment, however, will be made in five equal instalments. First instalment will be paid on or before May 7, 2000 and remaining instalments will be paid every month between first and seventh of every month.

(iv) Payment made in pursuance of this order would be subject to final outcome of the proceedings and without prejudice to the rights and contentions.

(v) All contentions are left open.

(vi) Appeal will be heard only after all the instalments are paid. Failure to pay any instalment as well as regular consumption charges will entail into dismissal of the appeal.

(vii) Till the appeal is decided, ad-interim relief granted by this Court will continue insofar as payment of supplementary bill is concerned.

Rule is accordingly made absolute to the aforesaid extent. No order as to costs.

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parekh